

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

E. K., individually; E. K., by and through)
her next friend and mother, AMY ATKINS,)
))
Plaintiffs,)
))
vs.) **CASE NO.: 3:07-cv-01083-MHT-TFM**
))
CHILD DEVELOPMENT SCHOOLS,)
INC. d/b/a CHILDCARE NETWORK,)
et al.,)
))
Defendants.)

RESPONSE TO COURT'S SHOW CAUSE ORDER

COMES NOW the defendant, Child Development Schools, Inc. d/b/a Childcare Network,
and in response the Motion to Quash or Modify Subpoena, or in the Alternative, Motion for
Protective Order filed by the Alabama Department of Human Resources (DHR) and the Court's
Order of March 4, 2008, shows as follows:

1. This lawsuit involves an allegation of improper contact between two (2) students at this defendant's daycare. The alleged incident was self-reported by the defendant to DHR, and upon information and belief, DHR conducted an investigation and issued a report clearing this defendant of any improper conduct. As such, this defendant directed a subpoena to DHR in order to obtain a copy of its file regarding this particular incident. The investigation conducted by DHR is relevant and reasonably calculated to lead to the discovery of other relevant information.

2. Upon information and belief, at the time of this alleged incident (May 2005), the plaintiff's family was already under investigation by DHR for allegations of physical abuse. As such, this defendant issued a subpoena to DHR to obtain those records. The plaintiff is claiming

“mental anguish and emotional distress damages for the emotional harm caused by this incident;” and is seeking “compensatory damages for the medical bills and psychiatric bills incurred by E.K. and her mother, Amy Atkins, as a result of this incident.” (Plaintiffs’ Initial Disclosures.) This defendant respectfully asserts that it is entitled to discover other possible causes (including family abuse) for the emotional distress alleged in this lawsuit.

3. This defendant does not object to an *in camera* inspection of the requested records to determine whether the records, as asserted by this defendant, contain evidence material to this case. Furthermore, this defendant does not object to the entry of a reasonable Protective Order regarding the records.

WHEREFORE, premises considered, this defendant respectfully shows cause as to why DHR’s motion should not be granted in its entirety, but instead, the documents should be produced following an *in camera* review and pursuant to a reasonable Protective Order.

s/Keith J. Pflaum

Keith J. Pflaum

Bar Number: ASB-3002-A54K

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CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of March, 2008, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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s/Keith J. Pflaum

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